

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

MELVIN PETERS,

Movant,

v.

Case No. 2:20-cv-00802
Case No. 2:19-cr-00166-01

UNITED STATES OF AMERICA,

Respondent.

MEMORANDUM OPINION AND ORDER

Pending is Movant Melvin Peters' Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C. § 2255, filed December 11, 2020. (ECF 38).

This action was previously referred to the Honorable Cheryl A. Eifert, United States Magistrate Judge, for submission of proposed findings and a recommendation ("PF&R"). Magistrate Judge Eifert filed her PF&R (ECF 58) on January 4, 2022, recommending that the court deny Mr. Peters' Motion to Vacate, Set Aside, or Correct Sentence and dismiss this civil action with prejudice.

The court need not review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or

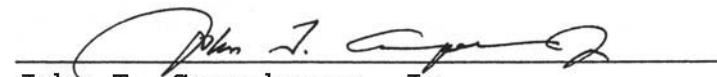
recommendation to which no objections are addressed. See Thomas v. Arn, 474 U.S. 140 (1985); see also 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made."). Failure to file timely objections constitutes waiver of de novo review and the petitioner's right to appeal the court's order. See 28 U.S.C. § 636(b)(1); see also United States v. De Leon-Ramirez, 925 F.3d 177, 181 (4th Cir. 2019) (parties may not typically "appeal a magistrate judge's findings that were not objected to below, as § 636(b) doesn't require de novo review absent objection."); Snyder v. Ridenour, 889 F.2d 1363, 1366 (4th Cir. 1989).

Further, the court need not conduct de novo review when a party "makes general and conclusory objections that do not direct the court to a specific error in the magistrate's proposed findings and recommendations." Opriano v. Johnson, 687 F.2d 44, 47 (4th Cir. 1982). Objections in this case were due on January 21, 2022. No objections were filed.

Accordingly, it is ORDERED that the findings made in the PF&R (ECF 58) are ADOPTED by the court and incorporated herein. It is further ORDERED that Mr. Peters' Motion to Vacate, Set Aside, or Correct Sentence (ECF 38) is DENIED, and this action is DISMISSED with prejudice.

The Clerk is directed to transmit copies of this order
to all counsel of record and any unrepresented parties.

ENTER: February 1, 2022



John T. Copenhaver, Jr.
Senior United States District Judge